

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**ONYX MANAGEMENT GROUP LLC**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS,  
LOCAL 30, AFL-CIO**

**Cases 29-CA-132441  
29-CA-132650  
29-CA-132804  
29-CA-134825  
29-CA-139722**

**DECISION AND ORDER**

Statement of the Cases

On April 21, 2015, Onyx Management Group LLC (the Respondent), International Union of Operating Engineers, Local 30, AFL-CIO (the Charging Party or the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, which the administrative law judge approved on April 24, 2015, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

**Findings of Fact**

**1. The Respondent's business**

At all material times, the Respondent, a limited liability corporation doing business in New Jersey and New York, including at 1 and 2 Jericho Plaza, Jericho, New York, has been engaged in providing primary commercial property services.

During the 12 months preceding the Formal Settlement Stipulation, a representative period of its annual operations generally, the Respondent, in the course and conduct of its business operations, derived gross revenues in excess of \$1,000,000 and provided services valued in excess of \$50,000 directly to customers outside the State of New Jersey.

The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The labor organization involved

The Charging Party is a labor organization within the meaning of Section 2(5) of the Act.

3. The appropriate unit

The Board has found that the following unit constitutes a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time building engineers, grounds maintenance employees and the lead grounds maintenance employees employed by Onyx Management Group LLC and working at its 1 and 2 Jericho Plaza, Jericho, New York facility, but excluding all other employees, including business office clericals, clericals and professional employees, guards, and supervisors as defined in Section 2(11) of the Act.

On May 29, 2014, the Regional Director for Region 29 certified the Charging Party as the exclusive collective-bargaining representative of the unit.<sup>1</sup>

## **ORDER**

Based on the Formal Settlement Stipulation and the entire record, and if the United States Court of Appeals for the Second Circuit rules in favor of the Board in *NLRB v. Onyx Management LLC*, No. 14-3511, and enforces the Board's Order in Case No. 29-CA-130471, the Board may enter an Order providing as follows:

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<sup>1</sup> Following the certification, the Union requested that the Respondent meet and bargain for a collective-bargaining agreement, but by letter dated June 6, 2014, the Respondent refused to meet and bargain. The Union filed an unfair labor practice charge alleging that the Respondent's refusal violated Section 8(a)(5) and (1) of the Act, and the Respondent asserted that it had refused to bargain in order to challenge the Union's certification. On August 28, 2014, the Board granted the General Counsel's motion for summary judgment in Case No. 29-CA-130471 and found that the Respondent had unlawfully refused to bargain with the Union. 361 NLRB No. 30. The Board's application for enforcement of its order is pending before the United States Court of Appeals for the Second Circuit.

Onyx Management Group LLC, Jericho, New York, its officers, agents, successors, and assigns shall, upon the entry of judgment and mandate by the United States Court of Appeals for the Second Circuit enforcing in full the Board's Order in Case No. 29-CA-130471, requiring the Respondent to bargain with the Union as the exclusive collective-bargaining representative of the unit employees:

1. With respect to the bargaining unit at Jericho Plaza 1 and 2, cease and desist from

(a) Changing the unit employees' payroll periods and making changes to unit employees' health care plans and life insurance plans without first notifying the Union and giving it an opportunity to bargain collectively.

(b) Communicating directly with employees in order to establish or change terms and conditions of employment.

(c) Refusing to or unreasonably delaying in providing the Union with information that is relevant and necessary for it to fulfill its role as the collective-bargaining representative of the unit employees.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Before implementing any changes to the unit employees' payroll periods and making changes to unit employees' health care plans and life insurance plans, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of unit employees.

(b) On request by the Union, furnish the Union with disciplinary records requested by the Union, including write-ups and documented verbal warnings for unit employees and the Respondent's disciplinary policy.

(c) Make whole the unit employees for any losses they suffered as a result of the unilateral changes in their terms and conditions of employment.

(d) Post in conspicuous places at the Respondent's 1 and 2 Jericho Plaza facility and all places where notices to employees are customarily posted, copies of the attached Notice to Employees marked Appendix A.<sup>2</sup> Copies of said notices, on forms

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<sup>2</sup> If this Order is enforced by a judgment of the United States Court of Appeals, there shall be substituted for the words "Posted by Order of the National Labor Relations

provided by the Regional Director for Region 29, after being duly signed by the Respondent's representative, shall be posted immediately upon receipt thereof, and be maintained by the Respondent for sixty (60) consecutive days thereafter.

(e) Notify the Regional Director for Region 29, by sworn affidavit of a responsible official of the Respondent, within 21 days of the enforcement of the Board Order in Case 29-CA-130471 by the United States Court of Appeals for the Second Circuit, what steps the Respondent has taken to comply herewith.

Dated, Washington, D.C., July 17, 2015.

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Kent Y. Hirozawa, Member

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Harry I. Johnson, III, Member

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Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

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Board" the words "Posted Pursuant to a Judgment of the United States Court of Appeals, Enforcing an Order of the National Labor Relations Board."

## **APPENDIX A**

### **NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government**

#### **PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS**

#### **FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union;  
Choose a representative to bargain with us on your behalf;  
Act together with other employees for your benefit and protection;  
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 30 (the Union) is the collective-bargaining representative of the building engineers, grounds maintenance and lead grounds maintenance employees (the unit) in dealing with us regarding wages, hours, and other working conditions of these employees.

WE WILL NOT refuse to meet and discuss in good faith with your Union proposed changes to employee payroll periods, health care plans, insurance plans or similar conditions of employment before putting such changes into effect.

WE WILL NOT communicate directly with employees in order to establish or change terms and conditions of employment without giving notice to the Union or offering the Union an opportunity to bargain.

WE WILL NOT refuse to provide information requested by your Union that is necessary for and relevant to the performance of its duty to represent you.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE HAVE rescinded all changes that we have made to the employee handbook, your payroll periods, and your health and life insurance policies.

WE WILL make whole the unit employees for any losses suffered because we changed your health and life insurance policies.

WE WILL, upon request, provide the Union with all necessary and relevant information in a timely fashion, including the following previously requested information: (1) all disciplinary records, including write-ups and documented verbal warnings for unit employees; and (2) the Respondent's discipline policy.

ONYX MANAGEMENT GROUP LLC

The Board's decision can be found at [www.nlrb.gov/case/29-CA-132441](http://www.nlrb.gov/case/29-CA-132441) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Room 5011, Washington, D.C., 20570, or by calling (202) 273-1940.

